

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Jaydee Thompson,

Petitioner,

v.

Case No. 1:11cv312

Warden, Warren Correctional
Institution,

Judge Michael R. Barrett

Respondent.

ORDER

This matter is before the Court on the Report and Recommendation filed by the Magistrate Judge on April 23, 2012 (Doc. 9).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). No objections to the Magistrate Judge's Report and Recommendation have been filed.

Accordingly, it is **ORDERED** that the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED**. Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) is **DENIED** with prejudice.

A certificate of appealability will only be issued with respect to whether petitioner's trial counsel provided ineffective assistance by failing to object to the prosecutor's challenged remark in closing argument essentially vouching for the credibility of the State inmate witnesses. A certificate of appealability will not issue with respect to petitioner's remaining allegations of ineffective assistance, because they do not rise to the level of a "viable claim of the denial of a constitutional right" and are not "adequate to deserve

encouragement to proceed further.” See *Slack v. McDaniel*, 529 U.S. 473, 475 (2000) (citing *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4 (1983)); see also 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). With respect to any application by petitioner to proceed on appeal in *forma pauperis*, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of any Order adopting this Report and Recommendation would be taken in “good faith,” and therefore would **GRANT** petitioner leave to appeal in *forma pauperis* upon a showing of financial necessity. See Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

IT IS SO ORDERED.

S/Michael R. Barrett
Michael R. Barrett
United States District Judge